

# NEW MEXICO INJURY ATTORNEY BLOG

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## **Construction Accident Fatality Results in Settlement with Contractor and Sub-Contractors**

The family of a worker killed in a construction accident in Texas reached a settlement with the contractor and subcontractors in a wrongful death lawsuit for the seemingly low amount of \$440,000.00. The low number probably suggests issues of comparative fault on the part of the deceased worker and his employer.

Luis Lara was a 23 year old construction worker. He was working on a construction job site in Mesquite, Texas, just outside of Dallas, where workers were lifted to upper floors of the job site with a forklift. As he was being lifted in a box by the forklift, the box tipped from the forklift sending him falling 2 stories to the ground where he hit a metal beam. He was pronounced dead at the scene.

The family sued both the contractor and the subcontractors for Mr. Lara's wrongful death. It was alleged that the contractor CME Builders and the subcontractors, Frontier Framing and Associated Truss & Lumber, used the forklift in a negligent manner contrary to the equipment's instructions as well as construction industry safety regulations. Past negligence and OSHA citations by Frontier Framing bolstered the claims of negligence against the defendants.

The defendants argued comparative negligence on the part of Mr. Lara which probably played a role in the relatively low wrongful death award of only \$440,000.00. The injuries and damages to Mr. Lara and his family probably far exceeded this amount. Mr. Lara's estate was entitled to recover for the wrongful death itself. The loss of life alone suggests a much higher settlement or jury verdict absent issues of comparative negligence.

In addition, because Mr. Lara was only 23 years old, and had his full work life ahead of him, the lost future earnings could far exceed the amount awarded. In the case of such a young worker killed on the job, the lost earnings over the remaining work life of Mr. Lara would likely exceed the million dollar mark unless he was a low paid laborer with little future earnings potential.

Lost earnings are typically calculated by expert economists that project the worker's remaining life-long earnings based upon his current age, position, past work history, educational level, industry wages and potential earnings

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along with other considerations to arrive at the estimate of lost future earnings. These numbers can be enormous in the case of young workers, particularly those in high paying fields such as construction.

The relatively low settlement amount suggests that Mr. Lara's earnings were not on the high end of the construction industry. In addition, the settlement amount suggests a significant level of comparative fault on the part of Mr. Lara. Finally, there were likely other comparative fault issues that arose as a result of worker compensation limits if Mr. Lara's employer was found even partially at fault for his wrongful death due to strict limits on employer liability under workers compensation statutes.

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